IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Khyali Lal Meghwal Vs. Union of India & Ors.

S.B.CIVIL WRIT PETITION NO. 1052/2007.

DATE OF ORDER :: March 16, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. Yogesh Sharma, for the petitioner.
Mr. Kuldeep Mathur for the respondent, Union of India.
Mr. K.K.Bissa, for the respondent, Airport Authority.

BY THE COURT:

Heard learned counsel for the parties.

By the order dt. 24.12.2003, the Under Secretary to the Government of Rajasthan, Ministry of Labour refused to make reference of the Industrial Disputes raised by the petitioner-workman on the ground that he was not appointed by the Management of Airport Authority of India but was engaged by the contractors, who were awarded the work of annual running operation, maintenance of D.G. Sets, electrical installations, water coolers and package units etc.

The contention of counsel for the petitioner, while assailing validity and propriety of the order dt. 24.12.2003, is that the appropriate government is not required to adjudicate the industrial dispute on merits.

The question as to whether the petitioner was employed by the contractors or by the Airport Authority of India is a question that is required to be adjudicated by the competent Labour Court or Industrial Tribunal, as the case may be.

Learned counsel for the respondent Airport Authority submit that the petitioner was engaged by the contractor and not by the Management of Airport Authority of India.

The question as to whether the petitioner was appointed by the Airport Authority of India or by the contractors is required to be decided on the basis of the evidence after adjudication of the dispute. It was not open for the appropriate government while exercising the powers under section 12(5) of the Industrial Disputes Act, 1947 to refuse to make reference by adjudicating the disputes on merit.

Accordingly, the refusal to make reference by the notification dt. 24.12.2003 is illegal and the same is, therefore,

quashed. The appropriate government is directed to consider the question with regard to reference of the industrial dispute afresh.

The writ petition is disposed of accordingly. There shall be no order as to costs.

(H.R.PANWAR),J.

m.asif/-